



U.S. Environmental Protection Agency  
Region 5 - Air and Radiation Division

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## Correspondence



### Document

July 3, 1997

Michael J. Sandusky  
Acting Division Manager  
Air Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, Minnesota 55155-4194

Dear Mr. Sandusky:

Thank you for April 4, 1997 letter regarding the use of permits as the federally enforceable documents in Minnesota's site-specific State Implementation Plan (SIP) submittals. The implementation of the process you have proposed will eliminate the need for two separate documents, the site-specific SIP and the Title V permit. Title V permits that contain SIP conditions, as described in your letter, can satisfy both the Title V and SIP requirements with this single document.

The approach outlined in your letter has been reviewed by the United States Environmental Protection Agency (U.S. EPA) and has been found to be acceptable under both Titles I and V of the Clean Air Act (CAA).

For federal approvability, any State requirement that is submitted as a revision to the federally enforceable SIP must be non-expiring or permanent. In your proposal, you have addressed this by stating that State operating permits are, generally, non-expiring. While it is possible for the State to make State permits expiring, it is understood that expiring State permits will not be submitted for inclusion in the SIP by the State, nor will expiring permits be considered for approval by U.S. EPA.

The use of the term, "Title I condition" in Title V permits is what makes the requirements permanent, and will allow Minnesota Title V permits to be used as another vehicle for SIP conditions. The State defines, "Title I Condition" as:

“Any condition based on a source specific determination of ambient impacts imposed for the purpose of achieving or maintaining attainment with the national ambient air quality standard and which was part of a state implementation plan approved by the EPA or submitted to the EPA and pending approval under section 110 of the act.”

Since these “Title I Condition” requirements are permanent, regardless of the expiration date of the permit itself, Minnesota Title V permits will also be viable as federally enforceable documents that will contain SIP requirements.

Two things make the process of allowing State permits to act as the enforceable documents containing SIP requirements possible in Minnesota. First, Minnesota’s operating permit program requires all State permits, not only Title V permits, to contain all applicable requirements. Those permits submitted as site-specific SIPs will have non-expiring SIP conditions (denoted as “Title I conditions”). Second, EPA has approved Minnesota’s operating permit program as a federally enforceable State operating permit program. In doing so, U.S. EPA approved the use of the term “Title I condition” and its use as indicating that a condition will not expire even if the permit containing that condition expires.

The U.S. EPA supports your efforts to streamline the regulatory and permitting programs through the adoption of these new procedures. In the process you have outlined in your letter you expressed an interest in U.S. EPA’s use of letter notices if a SIP/Title V permit was found to be approvable. At this time, letter notices are not available as a means of approval. If, at some point in the future, letter notices once again become an option for approving non-substantive SIPs that the public will have no interest in, U.S. EPA will consider using letter notices in conjunction with this process in Minnesota.

As you have mentioned, this new process does address issues associated with SIPs contained in permits, but the issue of what requirements must remain as part of the approved SIP still remains. My staff will be available to continue to work towards a mutually beneficial understanding of what “minor” requirements need not remain as SIP requirements and can be listed in the permits as such.

Finally, U.S. EPA does not believe the process you have proposed necessitates the creation of a memorandum of understanding or promulgation of a Federal Register notice. While this process is new, it does not deviate from any requirement or policy established under Title I or Title V of the CAA. The procedure described in your letter is one that takes into account the need for individual reviews under both the Title I and Title V programs. This, in addition to the fact that the U.S. EPA will be reviewing these SIP submittals on an individual basis, ensures that each revision will meet all of the criteria established by both of the affected Titles of the Clean Air Act.

If you have any questions or need additional information, please contact me or Douglas Aburano, of my staff, at (312) 353-6960.

Sincerely yours,

/signed Steve Rothblatt for David Kee/

David Kee, Director  
Air and Radiation Division



For further information, contact: [flowers.debra@epa.gov](mailto:flowers.debra@epa.gov)

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